



# STATE OF RHODE ISLAND

## Public Utilities Commission

89 Jefferson Boulevard  
Warwick, Rhode Island 02888  
(401) 941-4500

Chairman Ronald T. Gerwatowski  
Commissioner Abigail Anthony  
Commissioner John C. Revens, Jr.

**To:** Parties in Docket 4981  
**From:** Patricia Lucarelli  
**Date:** May 19, 2021

**Subject:** Notice of Inclusion of Certain Documents from Docket 4973 Into the Record and Request to Update Information Stated in Petitioner's Brief

---

---

The Chairman has requested that I provide this Notice and Request to the parties well in advance of the hearing on June 2, 2021. The Chairman was not involved in the initial proceedings below and, for that reason, he has reviewed the complete record of the proceedings. In that review, two separate and unrelated issues have been identified.

### **I. Inclusion of Filings in Docket 4973 Into the Record of this Proceeding**

In reviewing the entire record of the proceedings in this Docket 4981, it was noted that there are several references that were made by the parties to Docket of 4973. As the parties are aware, it was a Petition for Dispute Resolution in Docket 4973 and its associated mediation process which commenced the proceedings at the Commission regarding the Episcopal Diocese's requests for relief. That docket then proceeded in parallel with Docket 4981. The references to Docket 4973 and its associated mediation process appeared as follows:

- (a) Narragansett Electric's Brief filed in Docket 4981 on November 22, 2019, page 10, footnote 10;
- (b) Reply of the Episcopal Diocese filed on November 27, 2019, page 2 & footnote 2, page 4, page 5, footnote 5; and
- (c) Comments of Narragansett Electric filed on January 23, 2020, page 4.
- (d) The Petitioner then cited Docket 4973 in its Brief filed in this remand on April 30, 2021, pages 15-16.

Since the Petitioner has raised issues in the filings with both the Commission (in this remand) and the Supreme Court (initiating the appeal) about how the prior proceedings were conducted, the Chairman intends to include certain public documents from Docket 4973 as a record of the travel of the case that occurred earlier, to inform the Supreme Court of how the dockets proceeded in parallel. All of the documents currently available on the Commission's website listed under Docket 4973 would be included in the record for that purpose. Specifically, the following:

- (i) Petition for Dispute Resolution, filed by the Petitioner (Episcopal Diocese) on September 12, 2019;
- (ii) The Interim Report of the Mediator, Cynthia Wilson-Frias, published on December 30, 2019;<sup>1</sup>
- (iii) Mediator’s Recommendations, published April 22, 2020; and
- (iv) Letter from the Episcopal Diocese filed April 23, 2020.

If any party has an objection to the inclusion of any of these documents in the record of the travel of the case, the objection will be considered at oral argument. Please notify the Commission by no later than noon on June 1 if you intend to raise an objection at oral argument.

## **II. Request for Updated Information**

The second matter to which the Chairman wishes to draw the parties’ attention is not necessarily within the scope of this remand, but relates to information that could have been material to the assumptions that were made by the Commission in the original proceedings, had the information been available. Specifically, at the time of ruling on the Petition, the details of the transmission modifications or improvements that Narragansett Electric claimed should be the cost responsibility of the Petitioner were not known. At that time, it is apparent the parties were waiting for the results of a transmission impact study which would identify the transmission modifications or improvements.

Regarding the prospective transmission improvements or modifications, the Petitioner’s Brief filed on April 30, 2021 in this remand proceeding makes two statements which do not appear to be supported by any information that is in the current record before the Commission:

- (1) A reference on pages 15-16 to “over \$300,000 to fix a transmission line that was already overloaded;” and
- (2) The statement on page 19: “The transmission system improvements at issue in Docket 4981 are far far removed from the customer’s premises.”<sup>2</sup>

Based on the Petitioner’s second statement quoted above, it appears to the Chairman that the disputed transmission study may have been completed and, consequently, the parties may now be aware of the transmission improvements or modifications referenced by the Petitioner, their location, and the associated costs that Narragansett Electric has sought to allocate to the Petitioner.

The details of the improvements could be important new information. Those details could have had an impact on how the Commission interpreted R.I.G.L. §39-26.3-4(a) if they had been known at the time the Order. A question of statutory interpretation arises because the Petitioner

---

<sup>1</sup> Footnote 1 on page 2 of the Interim Report (which was also signed by the Petitioner and Narragansett Electric), states in pertinent part: “Following discussion at the October 4, 2019 meeting during which the mediator opined that she could not provide a ruling on one of the claims, the Diocese filed a Declaratory Judgment petition which was docketed by the Commission as Docket No. 4981.”

<sup>2</sup> The words “far far” is an accurate quote. The word “far” was repeated, which we assume was written to place emphasis on a great distance (as opposed to a typo).

made the following statement in a reply brief during the earlier proceedings about the assumed ownership of the facilities being modified:

“The Rhode Island statute states that ‘the electric distribution company may only charge an interconnecting, renewable-energy customer for any system modifications *to its electric power system* specifically necessary for and directly related to the interconnection.’ R.I. Gen. Laws §39-26.3-4.1(a) Despite [Narragansett Electric’s] misguided reference to ‘legislative history,’ NEP’s transmission system very distinctly and definitely is not part of [Narragansett Electric’s] ‘electric power system.’ It is clear from [Narragansett Electric’s] comments that the transmission system is owned by NEP – not [Narragansett Electric].”<sup>3</sup> (emphasis in original)

With respect to the Petitioner’s assumption about New England Power Company ownership, the Chairman points out (through administrative notice of proceedings recently occurring in Docket 4770) that Narragansett Electric owns transmission facilities in Rhode Island.<sup>4</sup> Further, Narragansett Electric also may own distribution facilities that are used for transmission purposes in Rhode Island.<sup>5</sup> While knowing the ownership or classification of the modified facilities may not have changed the outcome for relief, it could have affected the reasoning that was set forth in the Order when applying the statute to the facts under state law.

In light of the foregoing, the Chairman asks the Petitioner and Narragansett Electric to each provide a project update by responding to the following multi-part question:

Referring to the Petitioner’s Brief on page 19 that states: “The transmission system improvements at issue in Docket 4981 are far far removed from the customer’s premises,” please indicate the status of the transmission impact study and describe:

- (i) where the referenced transmission improvements or modifications are proposed to be made and the relative distance from the Eastern Array,
- (ii) the facilities that will be improved or modified, including voltage and whether they are classified as transmission or distribution used for transmission,
- (iii) the specific legal entity-owner of the facilities to be improved or modified for transmission purposes (i.e., Narragansett Electric, New England Power Company, or an owner not affiliated with National Grid, if known),
- (iv) the nature of the improvements or modifications, and
- (v) the estimated cost (if any) that Narragansett Electric maintains should be allocated to the Petitioner from the referenced transmission system improvements or modifications.

Please note that this request for updated information should **not** be construed as a decision to place the responses into the record of the remand proceedings. The Chairman is

---

<sup>3</sup> See “The Episcopal Diocese of Rhode Island Reply to TNEC’s Public Comment,” p. 5

<sup>4</sup> See Docket 4770 at <http://www.ripuc.ri.gov/eventsactions/docket/4770page.html> under “Compliance Financial Reports”, response to PUC 3-10, Attachment 3-10 “New England Electric Transmission-Distribution Classification Asset Rules Document,” pages 4-5, and PUC 4-11. The response indicates that Narragansett Electric owns transmission lines and transmission substations in Rhode Island.

<sup>5</sup> The response to PUC 1-2, page 3 in Docket 4770 indicates that there can be distribution facilities owned by Narragansett Electric that are used for transmission purposes, the cost of which flow through transmission rates.

aware of the legal question that has been raised regarding the scope of the remand which needs to be addressed at oral argument. Whether and how any new information should be treated or considered, if at all, will be determined after the responses are provided and the parties have an opportunity to address any issues regarding the content and relevancy of the responses – procedural or otherwise – at oral argument. The responses are due no later than close of business, May 24.